



US Army Corps
of Engineers

Construction Bulletin

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CEMP-C

Subject: Armed Services Board of Contract Appeals Decision on Higher Quality Standards

Applicability: INFORMATION

1. **PURPOSE.** This provides a summary of an ASBCA decision concerning the right of the Government to require, if specified, a level of quality higher than the industry standard.
2. **REFERENCE.** Appeal of M.A. Mortenson Company, ASBCA 49917, December 17, 1996.
3. **BACKGROUND.** This appeal arose out of a contract for construction of a Data Processing, Research, and Training Facility. The dispute concerned contract requirements for the finish and appearance of concrete masonry unit (CMU) walls. The contract required that standards set by the American Society for Testing and Materials (ASTM) Number C 90, concerning load-bearing CMUs would be part of the specification to the extent referenced. In a separate paragraph the contract further specified a higher standard for the finish and appearance of installed masonry walls without reference to ASTM C 90. The Corps required the contractor to meet the higher standard as specified. The contractor filed a claim for extra costs required to meet the higher standard arguing that ASTM C 90 was the industry standard, had been used by the Corps on previous projects and that the Corps requirement language in this instance was ambiguous.
4. **DECISION.** The Board rejected the contractor's arguments and found that the contractor was on notice from the plain meaning of the words used in the contract and could not reasonably rely on ASTM C 90 to provide meaning to the finish and appearance requirements. The Corps could impose a stricter standard than ASTM C 90 and enforce compliance with its specification. The appeal was denied.
5. Corps quality assurance personnel are urged to read the contract specifications in their entirety to enforce compliance and not rely solely on previous experience on other contracts. For full details on this decision local counsel should be consulted.

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6. This Construction Bulletin was coordinated with the Office of the Chief Counsel (CECC-C), Operations, Construction, and Readiness Division (CECW-OC), and the Principal Assistant Responsible for Contracting (CEPR-ZA).


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